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Magistrate Judge Brian A. Tsuchida

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AT SEATTLE
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

SANG JIN KIM, and
EUGENE YI,

Defendants.

MAGISTRATE'S DOCKET NO.

MS11-578

COMPLAINT for violation of
Title 17, United States Code, Section
506 and Title 18, United States Code,
Section 2319

BEFORE BRIAN A. TSUCHIDA, United States Magistrate Judge, U.S. Courthouse,
Seattle, Washington.

COUNT 1

(Criminal Copyright Infringement - Distribution for Commercial
or Private Financial Gain)

Beginning on or about October 1, 2010, and continuing through on or about April
1, 2011, within the Western District of Washington and elsewhere, the defendant, SANG
JIN KIM and EUGENE YI, did willfully, and for the purpose of commercial advantage
and private financial gain, infringe a copyright by reproducing and distributing, during a
180-day period, ten (10) or more copies of one (1) or more copyrighted works, to wit:
Korean broadcast television programs, U.S. motion pictures, PC console games, and
software, which have a total retail value of more than \$2,500.

1 All in violation of Title 17, United States Code, Section 506(a)(1)(A) and Title 18,
2 United States Code, Section 2319 (b)(1) .

3 **COUNT 2**

4 **(Criminal Copyright Infringement - Prerelease Piracy)**

5 On or about March 14, 2011, the defendant, SANG JIN KIM and EUGENE YI,
6 did willfully, and for the purpose of commercial advantage and private financial gain,
7 infringe a copyright by the distribution of works being prepared for commercial
8 distribution, to wit: motion pictures including "Tron: Legacy," "The Green Hornet,"
9 "Sanctum," "Hereafter," and "The Fighter," by making them available on a computer
10 network accessible to members of the public via the internet sites www.82movie.com and
11 www.007disk.com, when he knew and should have known that the works were intended
12 for commercial distribution.

13 All in violation of Title 17, United States Code, Section 506(a)(1)(C) and Title 18,
14 United States Code, Section 2319(d)(2)

15 And the complainant states that this Complaint is based on the following
16 information:

17 **INTRODUCTION AND AGENT BACKGROUND**

18 1. I, Christopher Armstrong, am a Special Agent with the Department of
19 Homeland Security, United States Immigration and Customs Enforcement (ICE),
20 assigned to the office of the Special Agent in Charge, Seattle, and have been so employed
21 since September of 2004. During my time with ICE, I have been assigned to the Seaport
22 Investigations Group and have participated in numerous investigations and search
23 warrants involving smuggling, fraud, intellectual property theft, money laundering, drug
24 trafficking, child exploitation and work-site enforcement. I am a graduate of the Federal
25 Law Enforcement Training Center's Criminal Investigator Training Program in
26 Brunswick, Georgia, as well as the Immigration and Customs Enforcement Special Agent
27 Training program. I have also completed the ICE Commercial Fraud Investigations
28

1 School where I received advanced training in fraud and related issues, such as violations
2 concerning the smuggling and other illegal movement of goods and merchandise into or
3 out of the United States. I am a graduate of the University of Washington, where I
4 received a Bachelor's degree in Political Science and Laws, Societies and Justice. Prior
5 to my employment with ICE, I served on active duty in the United States Air Force for
6 four years.

7 2. I make this affidavit in support of an application for arrest warrants for the
8 arrest of SANG JIN KIM and EUGENE YI, for violations of Title 17, United States
9 Code, Section 506 and Title 18, United States Code, Section 2319.

10 3. The facts set forth in this Affidavit are based on my own personal
11 knowledge; knowledge obtained from other individuals during my participation in this
12 investigation, including other law enforcement officers; my review of documents and
13 records related to this investigation; communications with others who have personal
14 knowledge of the events and circumstances described herein; and information gained
15 through my training and experience. Because this Affidavit is submitted for the limited
16 purpose of establishing probable cause in support of the application for an arrest warrant,
17 it does not set forth each and every fact that I or others have learned during the course of
18 this investigation.

19 SUMMARY OF INVESTIGATION

20 4. In July 2010, I received information from the ICE attaché in Seoul, Korea
21 regarding WORLD MULTIMEDIA GROUP INCORPORATED (hereinafter WMG), a
22 Lynnwood, Washington-based company. According to the ICE attaché in Seoul, a source
23 of information (SOI), reported that WMG was involved in the distribution of large
24 quantities of pirated movies, TV programs, software, and other intellectual property via
25 two Internet websites, www.82movie.com and www.007disk.com (also referred to as
26 82movie and 007disk) operated from the United States. The SOI reported that WMG's
27
28

1 president and chief executive officer, SANG JIN KIM, told him/her that the 007disk
2 website and server are located in the Seattle area.

3 5. I have since learned through Washington State Department of Licensing
4 records and the Treasury Enforcement Communications System (TECS), that SANG JIN
5 KIM is a Korean national with an expired Visa who was ordered removed from the
6 United States in 2005, by an Immigration Judge. According to the ICE attaché in Seoul,
7 KIM has an extensive criminal history in South Korea and is currently wanted by Korean
8 authorities for fraud and computer-based fraud.

9 6. As part of my investigation, I have reviewed the two websites identified by
10 the SOI (with the assistance of interpreters) and found that each offer the downloading of
11 numerous copyrighted Korean television shows, copyrighted U.S. movies and television
12 shows, as well as other copyrighted works including software, video games, and fitness
13 videos. The motion picture content available on the websites regularly includes pre-
14 release titles that, as of the time they are available on the WMG sites, have not been made
15 available to the public for viewing outside of movie theaters. As part of our investigation,
16 I and other HSI agents have downloaded samples of the copyrighted content available on
17 the sites and I have contacted the copyright holders of many of these multimedia
18 products. Without exception, each of the copyright holders I have contacted have
19 confirmed that they have not authorized KIM, WMG, or its affiliated websites and
20 corporate officers to reproduce these materials or offer them to the public for
21 downloading.

22 7. In September 2010 and again in March 2011, agents assigned to ICE, acting
23 in an undercover capacity, met with SANG JIN KIM to discuss the possible sale of the
24 007disk website and server(s). KIM provided information indicating that he received
25 frequent notices to remove movies (referring to current U.S. produced and copyrighted
26 movies) from his website, 82movie.com. He said that he would remove a movie from the
27 website when he receives a notice, but he would put the movie back on the website when
28

1 it was no longer in the theaters. KIM made statements that indicated he is aware of the
2 strict copyright laws in the United States. He also made statements indicating that he did
3 not have a license to offer the movies available on his websites, and that he knows it is
4 illegal. He also said that he only selects the "most popular" new movies to put on the
5 websites for download.

6 8. A recent review of the WMG websites revealed that WMG has created a
7 new website known as 82US.com. That website appears to be comprised of various
8 Korean news, entertainment, sports and cartoon clips, and it provides direct links to
9 82movie.com and 007disk.com and WMGus.net. I have also learned that KIM and WMG
10 are planning to launch a new business designed to deliver multimedia content to
11 consumers known as iTV. iTV is WMG's version of Internet Protocol Television and
12 according to WMG website, iTV will deliver a "real-time TV telecast solution." As part
13 of the iTV business, WMG is developing set top boxes to enable content delivery to
14 televisions. WMG iTV does not appear to be in operation at this time. However, WMG
15 has also developed iTV WMG Mobile, which is a mobile computing application
16 (commonly known as an "app") to deliver the same illegal content via smart phones,
17 including the iPhone, Android, iPad and Galaxy tablet. A recent undercover download of
18 the iTV WMG Mobile application revealed that WMG is distributing significant volumes
19 of copyrighted material, including Korean and US television shows and movies, via the
20 mobile applications without the copyright holders' permission.

21 9. Based on the evidence I have reviewed as part of this investigation, I
22 believe that WMG is a company that is permeated with criminal conduct related to
23 copyright infringement. It appears that the entire business model of WMG and its
24 subsidiary companies, 007disk.com and 82movie.com, is based on the distribution of
25 copyright infringing content including movies, television shows and software. Therefore,
26 I believe there is probable cause to find that all records related to the operation of WMG,
27 007disk.com, and 82movie.com are evidence, fruits and instrumentalities of conspiracy to
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1 commit criminal copyright infringement, and criminal copyright infringement. In
2 addition, I believe any digital evidence located at the SUBJECT PREMISES is likely to
3 be permeated with evidence, fruits and instrumentalities of this conspiracy including
4 copyright infringing content, methods of distributing that content, communications related
5 to the illegal marketing and distribution of that content, and evidence related to who is
6 responsible this conspiracy.

7 THE INVESTIGATION

8 I. Initial Referral

9 10. On July 12, 2010, ICE Foreign Service National Investigator Jongho Kim at
10 the ICE attaché office in Seoul, South Korea interviewed a source of information (SOI)
11 regarding WORLD MULTIMEDIA GROUP INCORPORATED, a Lynnwood,
12 Washington-based company that operates websites that distributes movies, television
13 shows, software and video games via the internet. According to the SOI, WMG
14 distributes these various forms of intellectual property in violation of the copyrights for
15 these products. The SOI told Investigator Kim that WMG operates the websites
16 www.82movie.com and www.007disk.com. The SOI said that WMG has approximately
17 eight employees in Washington State involved in the uploading of pirated copies of
18 copyrighted multimedia. The SOI also stated that he/she was engaged in discussions with
19 WMG regarding a potential sale of the 007disk website, servers, and related content.

20 11. The SOI provided copies of his/her communications with WMG CEO
21 SANG JIN KIM to Investigator Kim. According to the SOI, the purpose of his/her
22 communications with KIM was to discuss the potential sale of the 007disk website and
23 servers. The e-mail correspondence with KIM were to/from the e-mail address
24 sang@82movie.com. In the correspondence, KIM states that WMG is located in Seattle,
25 Washington, and that the company would sell the website 007disk to the SOI for
26 approximately \$90,000 (\$10,000 down payment; \$50,000 upon signing contract; \$30,000
27 after training). KIM told the SOI that WMG would upload approximately 50,000 titles
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1 into the server before selling it to the SOI and that it would take approximately two
2 months for SANG JIN KIM's employees to upload the 50,000 titles. KIM also offered to
3 provide training and customer service to the SOI for one year in order to help him/her
4 start the business. In addition, KIM told the SOI that the 007disk website and server are
5 located in the Seattle area.

6 **II. Worldwide Multimedia Group and Sang Jin Kim**

7 **A. Worldwide Multimedia Group**

8 12. On July 19, 2010, I reviewed WMG's company website, www.wmgus.net
9 (also accessible through www.wmgus.com), and learned the company has three main
10 businesses including, Computer Medical Center, 82movie.com and 007disk.com.
11 According to the website, 82movie.com "is the heart of the World Multimedia Group."
12 The website claims the company was founded in May 2002, and that Sang J. KIM is the
13 Chief Executive Officer. The website also provides a brief description of each of
14 WMG's subsidiary businesses. According to a "History" section of the website,
15 82movie.com began operating in May 2008, and 007disk.com began operating in March
16 2010.

17 13. According to the WMG website, Computer Medical Center is a business
18 that engages in computer sales and repair, network construction, CCTV security camera
19 installations, web-site production, staff ID production, network intruder prevention, fire
20 walls, threat management and POS [point of sale] programs. Computer Medical Center is
21 not a subject of my investigation and does not appear to be a significant part of the WMG
22 business model based on my investigation. According to the Washington Department of
23 Licensing, Computer Medical Center's business license is inactive. 82movie.com and
24 007disk, however, are both described as "web-hard solution (movie/TV
25 programs/educational programs) download service Member management of over 50
26 countries." The website also lists three other businesses under the WMG umbrella: 1)
27 82us.com, which is described as "Number one portal site for Koreans living in America;"
28

1 2) iTV, which is described as a “real-time TV telecast solution to Asians in all areas of
2 US and Canada per countries 10 countries: Korea, Japan, Philippines, Vietnam, China,
3 Russia, Thailand, Indonesia, Hong Kong, Singapore;” and 3) iTVWMG Mobile, which is
4 described as a “Mobile application that provides high quality video.”

5 14. As of November 1, 2011, the WMG website lists the following addresses:
6 1) a headquarters at 6912 220th St. SW, Mountlake Terrace, Washington; 2) an operation
7 management office at 15508 Country Club Drive, Mill Creek, Washington.; 3) a server
8 center at Fisher Plaza, 140 4th Ave N., Suite 360, Seattle, Washington; and 4) a server
9 center at Westin Collocation, 2001 16th Avenue, Seattle, Washington.

10 15. According to Washington State’s Department of Licensing (DOL) business
11 database and Washington Secretary of State Corporation filings, WMG is an active, for
12 profit corporation that was incorporated on May 28, 2008. On WMG’s business license,
13 Jenny KWON is listed as the governing person and the mailing and location address listed
14 is 16911 Highway 99 Suite 104, Lynnwood, Washington. WMG’s business license
15 previously listed 1210 126th Street SW, Everett, Washington as the business location and
16 22740 Highway 99, Suite B, Edmonds, Washington as the mailing address. On the
17 Secretary of State records, Samuel LIM is listed as the registered agent and the address
18 listed for the registered agent is 22740 Highway 99, Suite B, Edmonds, Washington.

19 16. According to Washington State Employment Security Department records,
20 as of September 20, 2010, the following individuals were listed as being
21 associates/employees of 82movie.com: 1) Jenny KWON is listed as the President; 2)
22 Poong ROH is listed as the Vice President; 3) Kyung ROH is listed as the Secretary; 4)
23 Paul HONG is listed as the Treasurer; 5) Hye Yong KIM is listed as Chairman of the
24 Board; 6) Eugene YI is listed as Director. Additionally, Do Han KIM, Yongsim KIM,
25 Seon OH and Joomi PARK are listed as employees.

26 **B. SANG JIN KIM**
27
28

1 17. I have reviewed Washington State Department of Licensing Records related
2 to an individual with the name SANG JIN KIM and a date of birth of June 7, 1975.
3 Those records list an address of 1210 126th Street SW, Everett, Washington - the same
4 address previously listed on WMG's business license with the Washington State
5 Department of Licensing and Secretary of State. I have also reviewed Treasury
6 Enforcement Communications System (TECS) records for SANG JIN KIM with a date of
7 birth of June 7, 1975. Those records show that KIM was a subject in a 2004 investigation
8 by ICE in Honolulu. KIM was allegedly involved in the receipt of illegal gambling
9 machines, but was never charged with any criminal offense. KIM was also found to be a
10 Visa overstay and ordered removed from the U.S. According the ICE Central Index
11 System (CIS), an Immigration Judge ordered KIM to be removed on February 28, 2005
12 and he was issued a Voluntary Departure Order. I was unable to locate a record of
13 departure from the United States.

14 18. On August 23, 2010, the ICE Attaché in Seoul received information from
15 the Korea National Police Agency that revealed SANG JIN KIM has an extensive
16 criminal history including convictions for credit card fraud and larceny. The Korean
17 National Police also reported that SANG JIN KIM has been wanted since 2003, based on
18 arrest warrants for fraud and computer-based fraud in relation to allegations he defrauded
19 several victims of over \$300,000.00 U.S. dollars between November 2001, and October
20 2002. The KNP also reported that another arrest warrant was issued for KIM's arrest in
21 2004, based on charges of robbery and injuring a person in 2002.

22 **C. Eugene Yi**

23 19. According to Washington State Department of Licensing Records,
24 EUGENE YI has a date of birth of September 12, 1970. His address is 21933 40th
25 Avenue SE, Bothell, Washington. As further discussed below, my investigation has
26 revealed that YI works as a technical officer for WMG. A review of e-mail
27 communications between YI and KIM, obtained pursuant to search warrants, revealed
28

1 that YI works with KIM and others to manage the overall operation, setup, configuration,
2 design, and maintenance of the websites and servers for 82movie.com, 007disk.com,
3 82us.com. YI is also one of the main representatives of WMG when dealing with Adhost,
4 the Seattle based server center.

5 20. I have reviewed a resume for EUGENE YI that was posted on the internet
6 social media site LinkedIn. That resume indicates that YI has over ten years experience
7 in information technology that includes expertise with web development, database
8 development, and a variety of programs utilized in web development and maintenance.
9 The resume states that YI previously worked as a "Sr. IT Software Development
10 Engineer" at Microsoft, and a "Perl Programmer/Webmaster" for the U.S. Bankruptcy
11 Court in Seattle among several other information technology jobs. According to his
12 resume, YI has a Bachelor of Science degree in computer science from the University of
13 Hawaii.

14 **III. WMG's Distribution of Copyrighted Korean Multimedia**

15 21. As part of my investigation, I have had multiple conversations with Peter
16 Park who works for the Munhwa Broadcasting Company (MBC). Mr. Park explained
17 that MBC is a South Korean based television broadcasting company that airs
18 programming in South Korea. MBC has a subsidiary company in the U.S. that
19 rebroadcasts the same Korean programming in the U.S. MBC is one of several South
20 Korean broadcasting companies with a subsidiary in the U.S., including Seoul
21 Broadcasting Station (SBS) and Korean Broadcasting System (KBS). Mr. Park told me
22 that he had reviewed the websites www.82movie.com and www.007disk.com and found
23 that they both contain South Korean television programs available for download that are
24 owned by MBC, SBS and KBS.

25 22. According to Mr. Park, the Korean broadcasting companies register
26 copyrights for their programs in the U.S. Mr. Park told me that WMG does not have
27 authorization from his company or the other Korean broadcasting companies to distribute
28

1 their content. Additionally, Mr. Park told me that 82movie.com and 007disk.com offer
2 pirated U.S. television programs, such as "CSI," and Hollywood movies, including
3 movies that are still in movie theaters. Mr. Park navigated through the Korean language
4 websites and showed me examples, such as "Robin Hood," "Salt," and "The
5 Expendables." Mr. Park also showed me examples of suspected pirated software, such as
6 "Adobe" and "Windows XP," as well as suspected pirated video games, such as "Call of
7 Duty."

8 23. Mr. Park described how South Korean television programs are legitimately
9 offered in the U.S. He said that MBC, for example, first airs a program in South Korea,
10 and then, at least six weeks later, MBC's U.S. subsidiary will broadcast the program in
11 the U.S. via cable service providers on channels such as MBC America and MBC Digital.
12 Mr. Park said this six week window is called the "hold back." He noted that
13 www.82movie.com and www.007disk.com will often have South Korean programs
14 available for download during the hold back period. He said that 82movie.com and
15 007disk.com often distribute Korean television programs within a day or two after the
16 show first airs in Korea. Mr. Park explained that websites like 82movie.com and
17 007disk.com are popular in the U.S. because subscribers do not have to wait the six week
18 hold back period.

19 24. Mr. Park said that one method 82movie.com and 007disk.com may be
20 utilizing to obtain early copies of Korean television shows is to have someone in South
21 Korea record the shows and downloaded them to a storage device in Korea and then send
22 the files (electronically or otherwise) to WMG so that WMG may upload the content to
23 servers in the U.S. I know based on my training and experience, that co-conspirators in
24 Korea could be sending Korean content via e-mail or other electronic transmission
25 methods.

26 25. Mr. Park told me that he has seen www.82movie.com advertised or
27 discussed on other websites/forums where representations are made that the website has
28

1 licenses to distribute these products and that the customer should not worry about the
2 content being illegal. According to Mr. Park, however, WMG does not have
3 authorization to distribute the content that belongs to MBC. He said that most of the
4 Korean content on the website most likely belongs to MBC, Seoul Broadcasting Station
5 (SBS), or Korean Broadcasting System (KBS). Mr. Park also said that based on his
6 review of the 82movie.com website, it appears customers can download media from the
7 website using purchased credits (i.e. \$5.00 - \$20.00 for 20 - 80 gigabytes), or by
8 purchasing a membership (i.e. \$15.00 - \$39.00 for one - three months).

9 26. On October 13, 2010, I received letters from the following Korean
10 broadcasting companies regarding the illegal uploading and downloading of their
11 programming on www.82movie.com and www.007disk.com: Munhwa Broadcasting
12 Company (MBC), Peter Park; Korean Broadcasting Company (KBS), Tae M. Kim; and
13 Seoul Broadcasting System (SBS), Hyunseung Lee. MBC, KBS and SBS are the three
14 major television networks in Korea. Each has subsidiaries in the United States that hold
15 exclusive distribution rights and U.S. copyrights for all of their respective networks'
16 programs, both past and present. The letters from these broadcasting companies indicate
17 that there are U.S. copyrighted programs currently being broadcasted on their television
18 channels that are available for instant download on www.82movie.com and
19 www.007disk.com without their authorization. As a result, these companies advised they
20 are experiencing substantial profit loss. Additionally, Peter Park, with MBC, provided
21 me with a list of programs that he downloaded (as evidentiary examples) from
22 82movie.com; along with three DVDs he used to preserve the downloaded programs
23 (each DVD contains five programs belonging to the respective Korean networks). The
24 following are examples of programs available for download on 82movie.com that are
25 registered with the United States Copyright Office by these Korean Broadcasting
26 Companies:

27 a. Munhwa Broadcasting Corporation
28

i. Title: Dong Yi (Episodes 1-2)

Registration number / Date: PA0001688172 / 2010-04-05

ii. Title: Coffee Prince - Episode 1

Registration number / Date: PA0001621000 / 2007-11-21

b. Korean Broadcasting System

i. Title: Boys Over Flowers : 1

Registration number / Date: PA0001629229 / 2009-03-11

ii. Title: Legend of the Patriots : 1

Registration number / Date: PA0001719964 / 2010-07-16

c. Seoul Broadcasting System

i. Title: I am Legend.

Registration number / Date: PA0001730139 / 2010-10-18

ii. Title: Giant : 1.

Registration number / Date: PA0001713766 / 2010-08-23

27. On October 16, 2011 and October 19, 2011, I received renewed statements, via email, from representatives from KBS and SBS confirming that WMG, 82movie.com and 007disk.com do not have permission to distribute KBS or SBS programming. Furthermore, KBS and SBS only authorizes a few select websites to stream their programming, such as dramafever.com and viki.com . They do not authorize any websites to provide download service in the U.S.

28. On November 7, 2011, I visited the 82movie.com and 007disk.com websites and observed an extensive catalog of similar MBC, KBS and SBS programs still available for download.

IV. WMG's Distribution of Copyrighted U.S. Multimedia

29. On March 14, 2011, I conducted a brief review of the 82movie.com website and found the following U.S. content available for download:

1 a. Movies (DVD release dates were obtained from
2 <http://videoeta.com/index.html>)

- 3 i. Tron: Legacy; DVD release date is April 5, 2011
- 4 ii. The Green Hornet; DVD release date is May 3, 2011
- 5 iii. Sanctum; DVD release date is estimated for June 2011
- 6 iv. Hereafter; DVD release date is March 15, 2011
- 7 v. The Fighter; DVD release date is March 15, 2011

8 b. Television programs:

- 9 i. Grey's Anatomy (Season 7)
- 10 ii. Chuck (Season 4)
- 11 iii. Fringe (Season 2)
- 12 iv. Glee (Season 2)
- 13 v. House (Season 7)
- 14 vi. Big Bang Theory (Season 4)
- 15 vii. Super Natural (Season 6)
- 16 viii. The Mentalist (Season 3)
- 17 ix. The Office (Season 7)

18 30. As part of my investigation, I learned that the Motion Picture Association of
19 America (MPAA) is a trade association that represents the interests of six major film
20 studios. The MPAA-member studios include: Walt Disney Studios Motion Pictures;
21 Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Twentieth Century
22 Fox Film Corporation; Universal City Studios LLC; and Warner Bros. Entertainment Inc.
23 Each of the abovementioned titles belong to member studios of MPAA. On or about July
24 12, 2011, MPAA Content Protection Manager Melissa Kriz, emailed me and advised that
25 Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Twentieth Century
26 Fox Film Corporation, Universal City Studios LLC, and Warner Bros. Entertainment Inc
27 all confirmed they have not licensed or otherwise authorized WMG, 82movie.com,
28

1 007disk.com, SAN JIN KIM, Jenny KWON, or Samuel LIM to distribute their content.
2 Melissa Kriz said she expected to receive confirmation from Walt Disney Studios
3 representatives soon.

4 31. On November 7, 2011, I visited the 82movie.com websites and observed
5 that these movies and television programs, as well as whole host of others, are still
6 available for download. Additionally, I observed several new movies available, including
7 the following pre-release (not yet available on DVD) titles: The Change Up; Harry Potter,
8 The Deathly Hallows Part 2; Mr. Popper's; and 5 Days of War. I also visited the 007disk
9 website and observed many pre-release movies, including Abduction and The Killer Elite,
10 as well as some of the same titles available on 82movie.com.

11 **V. WMG's Distribution of Copyrighted Microsoft Software and Video Games**

12 32. On September 30, 2010, I contacted Steve Studhalter, with Microsoft's
13 Anti-Piracy Investigations and requested a review of www.82movie.com and
14 www.007disk.com for any potential copyright infringing software. On October 12, 2010,
15 I received e-mail notification from Studhalter, indicating 007disk.com was offering
16 illegal digital delivery of numerous copyright protected Microsoft programs and
17 Microsoft Xbox games. According to Mr. Studhalter, Microsoft discovered the following
18 copyrighted products available on the 007disk.com website without Microsoft's
19 authorization:

20 a. **Xbox video games:**

21 Tales of Vesperia

22 Pro Evolution Soccer 2010

23 Devils May Cry 4

24 Borderland

25 b. **Operating systems**

26 Windows XP SP3

27 Windows XP SP2 (Volume Retail)

1 Windows XP Pro

2 Windows XP

3 Windows 7 Home Premier recovery Disk 64 bit

4 Windows XP Pro SP3

5 Windows 7 32bit (English Version)

6 **c. Graphic Design Software**

7 Microsoft Expression Web Designer

8 Microsoft Expression Studio 3.0.1927.0

9 MS Visual Studio Team System 2008

10 **d. Office Software**

11 MS Office 2000

12 MS Office 2007

13 MS Office 2002

14 MS Office 2003

15 MS Office 2003 (English version)

16 MS Office 2007

17 MS Office 2007 SP1 (English version)

18 MS Office 2007 Enterprise

19 MS office 2007 Enterprise +Plus pack

20 MS Office 2007 Enterprise (English version)

21 MS Office 2007 Enterprise SP2

22 MS Office 2007 Enterprise (SP2 with Key gen)

23 MS Office 2010 (English Beta)

24 MS Office XP Pro SP3

25 MS Office XP Pro (Japanese Version)

26 Microsoft Dictionary

27 MS OneNote

1 According to Mr. Studhalter, Microsoft found the types of Microsoft software available
2 on the 007disk.com website changed on a daily basis.

3 33. On November 7, 2011, I visited the 007disk.com websites and observed that
4 all of the abovementioned software and games are still available for download. I also
5 observed several Adobe software titles.

6 **VI. September 2010 Undercover Meeting with WMG and Sang Jin Kim**

7 34. In August, 2010, the SOI in South Korea contacted KIM and arranged a
8 meeting between KIM and an undercover ICE Special Agent acting as the SOI's cousin,
9 to discuss the purchase of 007disk.com. On September 3, 2010, at approximately 12:00
10 pm, SA Sung, working in an undercover capacity, traveled to 16911 Highway 99 #104,
11 Lynnwood, Washington and met with SANG JIN KIM and an employee who identified
12 himself as "David," (later identified as Do Han KIM). Based on a review of the recorded
13 conversation by SA Sung, the following was revealed (this is a summary and is not a
14 literal transcription):

15 a. KIM told SA Sung that 82movie.com and 007disk.com were the same kind
16 of business and explained that they were both "Web Hard" businesses. KIM stated that
17 he planned to keep 82movie.com and was only selling 007disk.com. KIM further
18 explained that 007disk.com will have the same content as 82movie.com and the only
19 difference between the two websites was the design of the website. KIM stated that since
20 007disk.com was not going to be in the U.S., the two businesses would not be in direct
21 competition.

22 b. KIM said that 007disk.com has been operating for approximately eight
23 months. Do Han KIM then stated that the only thing SA Sung needed to do with this
24 business was to market the website and update the content. KIM stated that uploading
25 and downloading of content for the website is conducted everyday, 365 days a year. KIM
26 stated that, for example, when a Korean program is broadcast in Korea, that program is
27 updated the same day. KIM stated that if SA Sung purchased 007disk.com, SA Sung
28

1 would receive all the same content as 82movie.com. KIM stated that SA Sung would be
2 able to receive the daily content by becoming a member of 82movie for \$15.00 per
3 month. Do Han KIM explained that once SA Sung is a member of 82movie.com, he
4 would be able to download all the new files daily from 82movie.com and then upload the
5 new files to 007disk.com. KIM explained that the data center he has, and the potential
6 new data center SA Sung would obtain, would enable SA Sung to download all new
7 content from 82movie.com to 007disk.com very quickly.

8 c. KIM stated that he started 82movie two years ago, and that 82movie now
9 has over 30,000 members. KIM stated that after SA Sung purchases the business, KIM
10 would provide SA Sung with information regarding how to market the website to
11 generate a growing customer base. KIM stated for example, that he markets 82movie
12 through "Google" and that he pays \$500.00 per month.

13 d. KIM stated that he downloads all his contents from a Web Hard company
14 located in Korea, and that he pays \$50.00 per month. KIM stated that the reason
15 customers in the U.S. subscribe to his website is the speed to download the material.
16 KIM stated that the closer the server is to the customers, the faster the download. KIM
17 stated that they were the only Web Hard company located in the U.S. KIM then showed
18 SA Sung a map located in the back of the office of his current subscribers to 82movie.
19 The map showed customers not just in the U.S., but also in various cities around the
20 world.

21 e. KIM stated that as the business grows, SA Sung would need to purchase
22 additional servers to create room for the expanding content. KIM stated that SA Sung
23 would have to purchase additional servers every 6 months to accommodate the growing
24 content. KIM stated that each server has 12 terabyte of hard drive space. KIM stated the
25 server for 007disk that SA Sung would purchase has 72 terabytes.

26 f. SA Sung noted that some of the content on 82movie and 007disk were
27 current U.S. movies and asked KIM if that was a problem. KIM and Do Han KIM stated
28

1 that there were no problems. SANG JIN KIM stated (with Do Han KIM translating
2 KIM's statement into English) that they have the right to download any movies once they
3 are removed from the theaters. SA Sung asked KIM about new movies that were still in
4 theaters that were being offered on his websites. KIM stated that he is so busy, that he
5 sometimes isn't aware what movies were being uploaded into 82movie or 007disk, since
6 other people upload the files. KIM stated that if he is aware of the problem he would
7 delete the file.

8 g. KIM stated that there was nothing to worry about regarding new movies on
9 the site and that he would explain more about that issue later. KIM further stated that if a
10 movie company discovers a movie on his websites for which he does not have permission
11 to market, he would claim that the movie was uploaded by mistake and that they would
12 remove the movie from the website. KIM stated that first offenses would not result in
13 arrest, but the movie companies would send a notice to remove the item. KIM stated that
14 if the movie wasn't removed, that is when he could be caught.

15 h. KIM stated that some subscribers would request current movies still playing
16 in theaters by sending them a "ticket." KIM explained that they would reply that it was
17 not legal to upload the movie at this time but, that it would be available as soon it is
18 removed from the theaters. SA Sung asked KIM about copyright issues on some of his
19 content. KIM replied that it's not a problem. KIM stated that it's not an American site,
20 but a Korean site, in Korean language, for Korean people, and that they are registered in
21 Korea. KIM stated that since they are registered in Korea, they are allowed to receive any
22 content from Korea without any problems. KIM stated that if that was a problem then he
23 was ready to go to jail. In addition, KIM stated they have attorneys working for their
24 business and that they've never had a problem, and not to worry. KIM stated that the
25 Korean company they receive all their contents from is similar to Netflix. KIM further
26 stated to SA Sung that they have been in business for a long time in the U.S., which has
27
28

1 the strictest laws, and nothing has ever been happened. KIM stated that if SA Sung plans
2 to take the business to Australia, the laws there are not as strict as in the U.S.

3 i. Do Han KIM told SA Sung that he had been employed at the business for
4 one year and that his function is "everything" from uploading new content to web
5 marketing. Do Han KIM stated that 007disk is designed better than 82movie in that it has
6 more content, more variety, and the site is easier for people to navigate. Do Han KIM
7 stated that 82movie was KIM's first project, and that 007disk was KIM's second project.
8 Do Han KIM stated that he met KIM through his father.

9 j. SA Sung again asked KIM about the issues of uploading current movies
10 into his sites, and KIM reiterated that it was not a problem. KIM stated that the movie
11 company would first either contact them by phone or email to remove the item. KIM
12 stated that they have received emails from movie companies in the past and that he was
13 going to show SA Sung one of the emails KIM had received from a movie company.
14 KIM brought SA Sung to his computer to view his company emails and told SA Sung that
15 he normally wouldn't show this to anyone. KIM stated that he rarely receives that type of
16 email but maybe once every two months. SA Sung asked KIM if the same movie
17 company discovers one movie and then later finds another movie, if that would that create
18 a problem. KIM stated that is not a problem as long as you remove the movie when they
19 request the movie to be removed. SA Sung asked KIM "if a movie company doesn't
20 request a movie to be removed, then you would leave it alone?" KIM replied "yeah." SA
21 Sung asked "if they request you to remove the movie, then you remove it?" KIM replied
22 "ok/yeah." At that time, KIM was unable to locate one of the emails from the movie
23 company and stated that he must have erased the email.

24 k. KIM further stated that once he removes a movie, he would wait a month
25 after it leaves the theater and would then upload the movie again onto his website and the
26 movie company would not say anything. SA Sung asked KIM about copyright issues, and
27 KIM stated that there was no problem, and that Hollywood and Korean web hard
28

1 companies have agreed to work as partners. KIM stated that there is no problem since
2 they are getting all their content from Korea. KIM stated that there would be a problem if
3 content was being downloaded from an American company. KIM stated that once SA
4 Sung purchases 007disk, SA Sung would be getting additional content directly from
5 82movie, which would not create an issue, since 82movie is obtaining all their files from
6 Korea. KIM told SA Sung not to worry because SA Sung would be servicing Korean
7 customers and that if there was a problem in how he operated his business why would
8 KIM have an office. KIM assured SA Sung this business was not a dangerous investment
9 in that KIM has many investors that included professionals such as an attorney and a
10 CPA.

11 **VII. March 2011 Undercover Meeting with WMG and Sang Jin Kim**

12 35. On March 9, 2011, at approximately 11:00 pm, SA Sung and Seattle Police
13 Detective Michael Jennings (assigned to ICE as a Task Force Officer), working in an
14 undercover capacity, traveled to 6912 220th Street SW, Mountlake Terrace, Washington
15 (WMG's new office space) to meet SANG JIN KIM for a second meeting. SA Sung and
16 Detective Jennings met with KIM and a WMG employee who identified herself as
17 "Lina," (later identified as Lina Bomi KIM). Based on a review of the recorded
18 conversation by SA Sung, the following was revealed:

19 a. SA Sung stated to KIM that Detective Jennings was SA Sung's partner and
20 that they wanted to further discuss the purchase of 007disk.com. SA Sung and Detective
21 Jennings stated to KIM that they were interested in purchasing 007disk, but needed more
22 information regarding the business. KIM began the meeting by showing SA Sung and
23 Detective Jennings a commercial about WMG's business. The commercial showed
24 WMG's current business of providing movie and television programs through their
25 internet based sites, 82movie and 007disk.com, and WMG's plan to expand into IPTV.
26 According to the commercial, IPTV will allow subscribers additional options in what and
27 how they view media content. The commercial was in the Korean language but KIM
28

1 stated that he intends to offer an English version of the commercial. After the
2 commercial, KIM stated that he was planning to launch IPTV in October of 2011.

3 b. Detective Jennings and SA Sung explained to KIM that 007disk currently
4 offers new movies that are currently being shown in theaters and wanted to know how SA
5 Sung and Detective Jennings would continue to offer the same new content, if they were
6 to purchase 007. KIM explained that all the contents in 007disk are the same as 82movie.
7 KIM explained that his company first uploads all their contents to servers and then
8 downloads the contents onto 82movie. KIM stated once all the material has been
9 downloaded onto 82movie, he would then upload the same contents onto 007disk. In
10 addition, "Lina" KIM stated that they download all the contents from the United States.

11 c. KIM initially stated to SA Sung and Detective Jennings that he does not
12 have a license to offer new movies on his websites and that if KIM notices a new movie
13 being offered he deletes them. Detective Jennings and SA Sung explained that 82movie
14 currently offers new movies such as the "Green Hornet" that is still being shown in
15 theaters. SA Sung and Detective Jennings asked KIM how they could continue to offer
16 new content, if they were to purchase 007disk. KIM stated again that 007 will be
17 uploading all its contents from 82movie.

18 d. Detective Jennings and SA Sung told KIM that they were concerned with
19 their investment in 007disk if they were to get sued for its contents and asked KIM how
20 they would protect their investment in 007disk. KIM stated that WMG has a licensed
21 contact in Korea to offer all the contents in 82movie and 007disk and they are paying for
22 those rights. KIM stated that he would write in the purchase contract of 007disk that the
23 contents of 007disk are licensed through WMG. I know this statement is false because I
24 have spoken to representatives of the Korean broadcast companies and the MPAA
25 (representing U.S. studios) whose content is offered on 82movie.com and 007disk.com
26 and they have told me that WMG does not have any licenses that authorize WMG to offer
27 the contents found on 82move.com or 007disk.com
28

1 e. SA Sung and Detective Jennings asked how often KIM has been contacted
2 for offering unlicensed products. KIM stated that he receives an email notice from movie
3 companies at least once a week to remove new content. KIM stated that they remove the
4 item from their website but that the movie is still saved on their server. KIM stated that
5 they would upload the content back onto their site at a later date. KIM then stated that if
6 he receives a notice to remove a new movie, he would remove that movie and upload the
7 material back onto their websites after that movie has been removed from the theaters.
8 KIM stated that he has the right to offer any movie once it leaves the theaters. I know
9 that this is also false because I have spoken to representatives of the U.S. studios whose
10 content is offered on 82movie.com and 007disk.com and they have told me that WMG
11 does not have authority to offer their movies either before or after the movies have been
12 displayed in the theaters.

13 f. KIM stated that he only selects popular new movies to upload onto
14 82movie, and does not offer all new movies on his websites. KIM then stated that there
15 are four ways to locate files that SA Sung and Detective Jennings could use to download
16 every new movie. KIM explained that if SA Sung and Detective Jennings wanted to offer
17 additional new released movies that he would show them how to find those files. In
18 addition, KIM stated that the notices he receives to remove any content on his websites
19 comes from Korea. KIM stated Korea sends the notices because all the files that are
20 downloaded are located in Korea. KIM stated once he receives the notice he would
21 remove the movie. KIM additionally stated that it was legal to offer any movie once it
22 leaves the theaters and that the release date of a DVD has no bearing.

23 g. Lina KIM claimed that the files they receive are from Korea and that the
24 email notices to remove new content comes from Korea. Detective Jennings asked why
25 they needed to comply with notices to remove new content and Lina KIM replied that if
26 the movie is still in the theaters, they (referring to movie company) are not making
27 money, if its on the WMG website. Detective Jennings then asked when it was legal to
28

1 offer new movies on the website and gave an example of the movie "Green Hornet" that
2 is currently offered on 82movie. Detective Jennings explained that "Green Hornet" is
3 still being shown in theaters and a DVD release date was not scheduled until May 5,
4 2011. KIM claimed that it is legal to offer new movies once the movie leaves the theater.

5 h. KIM further stated that he has had no problems conducting business in the
6 United States, which has the most stringent copyright laws, so KIM told SA Sung and
7 Detective Jennings that if they intend to operate 007disk in Australia, they would not have
8 a problem.

9 i. Detective Jennings explained to KIM that his apprehension regarding the
10 purchase of the company was based on the legality of providing brand new content, such
11 as movies and TV programs. Detective Jennings and SA Sung stated that they felt more
12 comfortable with the purchase of 007disk since KIM explained that even though illegal
13 movies might be flagged to be removed that no legal action would take place. KIM stated
14 that he understood SA Sung and Detective Jennings' concern.

15 j. At the conclusion of the meeting, KIM gave SA Sung his business card that
16 identified him as Brian KIM, President of WORLD MULTIMEDIA GROUP.

17 **VIII. Adhost**

18 36. On November 10, 2010, I interviewed employees of Adhost, which is a
19 Seattle-based web-hosting/server collocation facility. According to whois.net (publicly
20 available information), Adhost is listed as the domain name server for 82movie.com and
21 007disk.com. Their Internet Protocol (IP) addresses are 174.127.155.2 and
22 174.127.155.14 respectively.

23 37. According to Adhost, 82movie.com (also known by Adhost as WORLD
24 MULTIMEDIA GROUP) operators SANG JIN KIM and Seon OH initially contacted the
25 Sales Manager at Adhost, and requested "rack space" for approximately 15 servers
26 (belonging to 82movie.com). KIM and OH requested at least 1 Gbps (gigabits per
27 second) of bandwidth and said they may want up to 10 Gbps. For the contract with
28

1 82movie.com, Adhost used Spectrum Networks for the bandwidth service (connection to
2 internet).

3 38. The Adhost employees explained that Adhost does not maintain the servers
4 for 82movie.com. Adhost only provides the storage for the servers, electricity for the
5 servers, physical security and bandwidth, which they are re-selling from Spectrum
6 Networks. KIM and OH are responsible for maintaining the 82movie.com servers and
7 associated website(s). KIM and OH have access cards to the facility and can visit
8 anytime to access their servers.

9 39. KIM and OH told Adhost that their business involved providing digital
10 content from Korea, to Koreans living in the United States. According to Adhost,
11 82movie.com was using cable boxes, known as Internet Protocol Television (IPTV),
12 which delivers the digital media to the customer's television.

13 40. According to records received on November 18, 2010, from Adhost, the
14 following individuals were listed on the client account for WMG (including their email
15 address and telephone numbers:

- 16 a. Sang Jin KIM
17 sang@wmgus.net; k02475@hotmail.com
206-779-0065; 425-743-8888
- 18 b. David "Do Han" KIM
19 david@82movie.com
425-772-2039; 425-743-8888
- 20 c. Seon OH
21 Seon@wmg.net
206-307-8521; 206-478-7411; 509-731-3783; 425-319-9431
- 22 d. Sun Kyung KIM
23 sun@82movie.com
253-232-9594; 425-743-8888
- 24 e. Eugene YI
25 ehyi@yahoo.com
425-220-7142

41. Additionally, Adhost provided copies of multiple email communications with OH at Seon@wmg.net, and YI at ehyi@yahoo.com, pertaining to the set-up, configuration, maintenance, etc. of the 82movie.com and 007disk.com servers.

42. On June 22, 2011, Adhost confirmed via email, that YI is still listed on the WMG client account as the account "owner." Adhost advised that the last e-mail communication from YI, using e-mail address ehyi@yahoo.com was on June 16, 2011. Adhost also confirmed that KIM is still listed on the WMG client account with the e-mail addresses sang@wmgus.net and k02475@hotmail.com.

43. In early November, 2011, Adhost provided me updated records and information regarding WMG's account with Adhost and the location of WMG's servers. This information included a computer inventory that listed approximately 30 electronic components, including servers, mobile encoders and mobile storage. According to Adhost, WMG's server's are located in racks 1-26 and 1-17 of Adhost's Plaza East Data Center at Fisher Plaza East, 140 4th Ave. N., Suite 365, Seattle, WA 98109. According to Adhost, these racks only contain WMG equipment and are the only locations they have for WMG equipment. The rack enclosures, power distribution units (power strips) and upstream fiber and ethernet network cabling and associated patch panels belong to Adhost. Everything else in those racks, however, belongs to WMG. Adhost also provided information on the WMG account indicating the following IP addresses correspond with websites known to be owned and operated by WMG.

174.127.155.2 (82movie.com)

174.127.155.14 (007disk.com)

174.127.155.24 (82us.com)

VIV. Search Warrants for Sang Jin Kim and Eugene Yi E-mail Accounts

44. On July 20, 2011, I sought and received approval for search warrants from the Western District of Washington to search the MSN Hotmail account, K02475@hotmail.com, that belongs to SANG JIN KIM, and the Yahoo! account,

ehyi@yahoo.com, that belongs to EUGENE YI. Beginning in August 2011 and continuing through October 2011, Investigative Assistant (AA) Joon Song and I reviewed the records produced by MSN Hotmail and Yahoo! Based on a review of the records, the following pertinent information was revealed:

45. A large portion of the emails provided by Yahoo! are discussions between YI and KIM and other individuals regarding the overall operation, setup, configuration, design, maintenance etc. of the websites and servers for 82movie.com, 007disk.com, 82us.com and WMG's expansion into Internet Protocol Television (WMGITV, aka ITV). Additionally, based on the context of the emails, YI appears to be the lead WMG representative dealing with Adhost, the Seattle based server center. YI exchanged emails with Adhost regarding set up, maintenance, performance, troubleshooting, etc.

46. KIM received several emails from Google AdWords regarding his account status. Google AdWords is a paid advertising service which allows users to provide keywords that, when searched, will generate links to their websites. Some of these emails were warnings of copyright violations. Specifically, the following email, titled "Final Warning: Advertising policy violations" was dated November 25, 2010.

Hello Sangjin,
Final Warning

It has come to our attention that despite multiple disapprovals, you have repeatedly submitted ads that violate our Copyright policies.

Please consider this notice as a final warning. If you submit these ads again or continue to run ads that violate our policies, we will be unable to run any of your AdWords ads in the future, and all of your Google AdWords accounts will be permanently suspended. For more information on our advertising policies, including suspension policies, visit

http://adwords.google.com/support/aw/bin/static.py?hl=en&page=guide_toc.cs&path=policy.

We highly value the quality of our program. In order to create an environment where our users can trust our advertisers and continue to receive quality advertising, we ask that you cease submitting ads that violate our guidelines.

For your account to remain active in the future:

Please cease leading users to a site that promotes or facilitates the download of copyrighted TV shows, movies or music without the consent of the copyright holders. Please do not submit ads or websites in violation of this policy.

1 Additionally, please do not open any new AdWords accounts. If you do,
2 your newly opened accounts will be suspended upon registration, and your
3 account fee will not be refunded.

4 To read more about our advertising guidelines, please visit
5 <http://adwords.google.com/support/bin/static.py?page=guidelines.cs>

6 Thank you for your cooperation.

7 Sincerely,

8 The Google AdWords Support Team

9 47. KIM forwarded emails from Google to Eugene YI. KIM received similar
10 emails written in Korean as well. On December 2, 2010, YI responded to an email from
11 KIM titled "Final Warning: Advertising policy violations." He emailed KIM and cc'd
12 Sunkyoung KIM (sun@82movie.com) with the following.

13 This is Final Warning letter from Google. It is about TV, movie, or music
14 copyrights. We should erase the names of movies, especially on US
15 movies, from our ads. We may permanently get kicked out of Google ads.
16 Sunkyoung, please take appropriate actions on 007.

17 48. KIM also forwarded Google Analytics reports to YI and to
18 all@82movie.com. Google Analytics is a service that allows users to monitor website
19 traffic. Google Analytics reports can tell a subscriber the number of visits to a site, the
20 number of visits to particular portions of sites, the origin of users who are visiting the site,
21 the identity of sites referring traffic to the user's site, and other information useful to
22 those managing a commercial website. KIM received these emails for each of his
23 websites (82movie.com, 007disk.com and 82us.com). YI often forwarded these emails to
24 Hyuntae KIM, using email address hyuntae@wmgus.net and Sunkyoung KIM, using email
25 address sun@82movie.com or sun@wmgus.net.

26 49. On an email dated June 21, 2010, YI emailed KIM regarding the Google
27 Analytics for 82movie.com and wrote:

28 This is the 82moview traffic report which Google sends out every Monday.
29 Take a look... but, some people came into our website by searching
30 sang@82movie.com..... **Is this maybe Investigative Agency?** Brother,
31 who would come to our website by using your email address?

32 50. KIM sent and received emails to and from the email address
33 service@82movie.com that contained attachments titled "82movie Member Newsletter."

1 For example, one newsletter, dated July, 2011, had images and references to movies.
2 More specifically, there was a movie review of the movie "Cars 2" and multiple images
3 from the movie. At the time, this movie was still in theaters and had not been released for
4 commercial distribution. There were also reviews and images for the Showtime series
5 "Big C Season 1" and the HBO series "Boardwalk Empire Season 1."

6 51. KIM also received forwarded emails from YI regarding YI's
7 communications with employees at Adhost and Swift Communications. These emails
8 discuss connectivity and rack space for servers. There were multiple emails exchanged
9 between KIM and YI related to the overall operation, setup, configuration, design etc. of
10 the websites and servers. A review of these emails suggests that YI is the primary
11 technical officer for WMG and that he is heavily involved in the operation of the
12 websites.

13 52. KIM and YI discussed the websites' listings, categories and arrangements
14 of movies and television programs. Most of the discussions were in general terms.
15 However, there was an email from KIM to YI, dated September 30, 2009 that had an
16 attachment describing how to make separate tabs for MBC, SBS and KBS programs.
17 Another email from KIM, dated October 13, 2009, tells YI to change the TV listings for
18 the several new Korean dramas.

19 53. YI and KIM also exchanged emails about GoDaddy.com domain
20 registrations for 82movie.com and 007disk.com. KIM's GoDaddy.com account (number
21 31857357) indicates that he also purchased the domain names "82movie.net" and
22 "007disk.net." YI also emailed an employee at Swift Communications on May 6, 2011,
23 advising that he purchased the domain name "wmgitv.com" from GoDaddy using the
24 same account (31857357).

25 54. YI also exchanged many emails with Dennis Kim, and Brandon Kim, both
26 Certified Public Accountants (CPA) for "Kim & Kim CPAs Inc." and "Park and
27 Associates, P.S., CPA," respectively regarding his work for WMG. On October 19, 2009,
28

1 YI emailed Dennis Kim a copy of a draft contract for him to work at WMG. The
 2 "Investment Contract" was a mutual agreement for YI to work on "necessary technical
 3 supports within www.82movie.com." Among many e-mails between YI and his CPAs,
 4 on October 20, 2009, YI emailed Brandon Kim and wrote:

5 Hello,
 6 I have favor to ask. I am about to sign the attached contract, which was
 7 offered from 82movie.com's management, SANG JIN KIM. Without any
 8 financial investment, I will receive 5% of stock by just working as
 9 technician, and will also receive \$406 per month in wage; after that I will
 10 receive 5% of company's earning.
 11 The thing I'm concerned with is that, what if the company goes wrong, owes
 12 unknown debt, **and faces legal obligations with illegal business**
 13 **activities?** I do not want to be responsible. If I receive 5% of stocks, do I
 14 become responsible as stockholder? Should I receive a different contract
 15 template?
 16 (82 movie.com is known as servicing Korean TV and US movies by paying
 17 loyalty and does not have any legal matters, however, I don't really know
 18 about that well.
 19 Also, attached file is not in English but in Korean, I want to know if it is
 20 still legally suitable in US courts.

21 In other e-mails between YI and his CPA's, they discuss the tax implications of his
 22 contract structure with WMG and YI frequently asks whether his interest in the company
 23 can result in liability for company actions as a result of lawsuits.

24 55. On October 20 2009, YI sent an email to himself and sent a blind copy
 25 (bcc) to Shawn Kim at the e-mail address deuxfov@gmail.com, and Eun Seok Lee at the
 26 e-mail address eunseok@sixsenses.biz, regarding a lawsuit against Kongdisk.com. The
 27 email said "Heard you're using Kong Disk, so here it is.

28 [Http://board.jscinema.net/xe/jsboard/217](http://board.jscinema.net/xe/jsboard/217). Lawsuit's been on-going, so might wanna
 avoid. Should be better canceling the membership?" Kong Disk is a website similar to
 007disk.com and 82movie.com that is suspected of distributing pirated multimedia
 content via the internet in a manner similar to that used by WMG.

29 X. Google Adwords Records

30 56. Based on the discovery of the emails from Google AdWords, I requested
 31 records from Google pertaining to Google AdWords accounts held by KIM and/or YI.

1 On August 16 and 23, 2011, Google provided records indicating KIM has an active
2 account since October 30, 2009 and YI has an active account since November 14, 2009.
3 Google provided copies of approximately 16 email notifications sent to KIM
4 (k02475@hotmail.com) between March 2010 and November 2010, advising him of ad
5 words that were disapproved for copyright-related issues. Under the "suggestions"
6 section, each emails states "It has come to our attention that your ad promotes the copying
7 or distribution of copyrighted material without the consent of the copyright holder."

8 **XI. Undercover Memberships with 82movie.com and 007disk.com**

9 57. In April 2011, the HSI office in Los Angeles, California, initiated a
10 collateral investigation, in coordination with the Beverly Hills Police Department (BHPD)
11 High Tech Crimes Unit Taskforce (HTCU), to assist in identifying, downloading and
12 analyzing infringing content, and to image the target websites (82movie.com,
13 007disk.com, and related websites). In May 2011, HSI SA Andrew Reynolds, with the
14 assistance of BHPD HTCU investigators, created undercover memberships on
15 82movie.com and 007disk.com. In June 2011, SA Reynolds created near-duplicate
16 images of 82movie.com and 007disk.com. This provided HSI agents with controlled,
17 offline access to the design, layout and contents of the websites, in addition to preserving
18 the websites' illicit content for future review.

19 58. In July 2011, Criminal Research Specialist (CRS) John KIM and I, accessed
20 82movie.com and 007disk.com and paid for 60 day subscriptions to both 82movie.com
21 and 007disk.com. Each purchase cost \$28.00 USD (paid by Visa card) and was processed
22 through Eximbay, which was previously identified as a Singapore-based online payment
23 service used by 82movie.com and 007disk.com. The purchases allowed for unlimited
24 downloads in the allotted 60 day period.

25 59. Following the above-mentioned subscription purchase(s), and with the
26 assistance of BHPD HTCU investigators; SA Reynolds, on the below-listed dates,
27 utilized a covert internet connection to access the illicit multimedia files on the
28

82movie.com website and initiated downloads of digital copies of what were listed to be the following movies and television shows:¹

Date	Movie of Television Show Title	U.S. Theater Release	DVD Date	Studio	URL
08/25/2011	Bad Teacher 2011	06/24/2011	10/18/2011	Sony	www.82movie.com
08/25/2011	Cowboy Bebop Knockin' on Heaven's Door	09/01/2001	06/24/2003		www.82movie.com
08/25/2011	Fast Five	04/29/2011	10/5/2011	Universal	www.82movie.com
08/25/2011	Game of Thrones - Season 1	N/A			www.82movie.com
08/25/2011	Space Cowboys	08/01/2000	04/17/2001	Warner Bros.	www.82movie.com
08/25/2011	Super 8	06/10/2011	11/22/2011	Paramount	www.82movie.com
08/25/2011	Thor	05/06/2011	09/13/2011	Marval/Paramount	www.82movie.com
08/25/2011	Wrecked	04/01/2011	08/30/2011	IFC Films	www.82movie.com
08/25/2011	X-Men First Class	06/03/2011	09/09/2011	Fox	www.82movie.com
08/25/2011	Your Highness (incomplete)	04/08/2011	08/09/2011	Universal	www.82movie.com
08/30/2011	Die Hard 4 (Live Free or Die Hard)	06/22/2007	11/20/2007	Fox	www.82movie.com
08/30/2011	Drag Me to Hell	05/29/2009	10/13/2009	Universal	www.82movie.com
08/30/2011	State of Play	04/17/2009	09/01/2009	Universal	www.82movie.com
08/30/2011	The Dark Knight	07/18/2009	12/09/2008	Warner Bros.	www.82movie.com
08/30/2011	Valkyrie	12/25/2008	05/19/2009	United Artists	www.82movie.com
09/28/2011	Bridesmaids	05/13/2011	09/20/2011	Universal	www.82movie.com
09/28/2011	Don't Be Afraid	08/26/2011	01/03/2012	Film Destrict	www.82movie.com
09/28/2011	Mad Men Season 4	N/A			www.82movie.com
09/28/2011	The Veteran	04/29/2011	08/29/2011		www.82movie.com
09/28/2011	Transformers: Dark Moon	06/29/2011	09/30/2011	Dream Works/Paramount	www.82movie.com

60. As part of his investigation, SA Reynolds utilized the network monitoring program "Show Traffic" to determine the source of the downloads he was obtaining from 82movie.com. His investigation revealed the primary source of the downloads were two IP addresses that are located at Adhost where WMG has rented server space.

61. On the below-listed dates, SA Reynolds, utilized a covert internet connection to access the illicit multimedia files on the 007disk.com website and initiated

¹ Some of the movies that agents downloaded had not yet been released to DVD and/or were still playing in movie theaters at the time of download. The DVD release dates listed were obtained from dvdreleasedates.com. These are just samples of some of the movies that SA Reynolds downloaded from www.82movie.com.

downloads of digital copies of what were listed to be the following movies and television shows:

Date	Movie of Television Show Title	U.S. Theater Release	DVD Date	Studio	URL
08/25/2011	Pirates of the Caribbean: On Stranger Tides	05/20/2011	10/18/2011	Disney	www.007disk.com
08/25/2011	Bad Teacher	6/24/2011	10/18/2011	Sony	www.007disk.com
08/25/2011	Cowboys and Aliens	07/29/2011	12/6/2011	Dream Works/Universal	www.007disk.com
08/25/2011	Thor	05/06/2011	09/13/2011	Marvel/Paramount	www.007disk.com
08/25/2011	Blitz	05/20/2011	08/23/2011	Millennium Media Services	www.007disk.com
08/25/2011	Your Highness	04/08/2011	08/09/2011	Universal	www.007disk.com
08/25/2011	From Prada to Nada	01/28/2011	05/03/2011	Pantelion Films Lionsgate	www.007disk.com
08/25/2011	No Strings Attached	1/21/2011	05/10/2011	Paramount	www.007disk.com
08/25/2011	Something Borrowed	05/06/2011	08/16/2011	Warner Bros.	www.007disk.com
08/25/2011	All Star Superman	02/22/2011	02/22/2011	Warner Bros.	www.007disk.com
08/25/2011	Priest	05/13/2011	08/16/2011	Sony	www.007disk.com
08/25/2011	Seconds Apart	01/28/2011	05/24/2011	Lionsgate	www.007disk.com
08/25/2011	Big Mommas Like Father Like Son	02/18/2011	06/14/2011	Fox	www.007disk.com
08/25/2011	Arthur	04/08/2011	07/15/2011	Warner Bros.	www.007disk.com

62. SA Reynolds also downloaded over two-dozen copyrighted software programs from software companies that included Adobe, Microsoft, and Quicken, as well as video games from multiple video game producers. As part of his investigation, SA Reynolds utilized the network monitoring program "Show Traffic" to determine the source of the downloads he was obtaining from 007disk.com. His investigation revealed the primary source of the downloads were two IP addresses. One of the IP addresses was 174.127.155.14 which is a known IP address at Adhost where WMG has rented server space. The other IP address, 111.67.223.110, appears to be based in the Republic of Korea.

63. On August 26, 2011, I accessed 82movie.com using an undercover membership and discovered a variety of Beachbody products available for download. Beachbody is a California-based company that primarily produces and sells fitness DVDs, kits and other products and services related to health and fitness. I identified and

1 downloaded approximately 50 different Beachbody video products and subsequently
2 reviewed the digital copies.

3 64. On August 30 and 31, 2011, I exchanged emails with David Squellati,
4 Senior Director, Intellectual Property Counsel at Beachbody. Mr. Squellati first
5 confirmed via email and later provided an affidavit stating that the products available for
6 download on 82movie.com are not authorized by Beachbody. Furthermore, Mr.
7 Squellati's stated that neither World Multimedia Group Inc., 82movie.com nor
8 007disk.com were authorized distributors of Beachbody products. According to Mr.
9 Squellati, the products I had downloaded cost between \$79.99 and \$119.99 each and
10 Beachbody owns several copyright registrations covering the products, including, but not
11 limited to: P90X - U.S. Copyright Registration number PA 1-324-687; Insanity - U.S.
12 Copyright Registration number PA 1-689-744; 10 Minute Trainer - U.S. Copyright
13 Registration number PA 1-600-800; and TurboFire - U.S. Copyright Registration number
14 PA 1-737-803.

15 65. On August 31, 2011, I accessed 82movie.com using an undercover
16 membership and discovered a variety of Ultimate Fighting Championship (UFC) and
17 World Wrestling Entertainment (WWE) products available for download. I observed
18 approximately 68 UFC titles and approximately 105 WWE titles on 82movie.com. I
19 randomly selected, downloaded and reviewed digital copies of approximately six files to
20 serve as samples. Each file contained several complete fights/matches. When accessing
21 the files and initiating the downloads, I used Camtasia to record and capture the screen
22 shots.

23 66. On September 30, 2011, I contacted John Krieger, with Lewis and Roca
24 LLP, a law firm that represents Zuffa Inc (DBA UFC) regarding the UFC programs
25 discovered on 82movie.com. On October 14, 2011, Mr. Krieger emailed a declaration
26 from Ike Lawrence Epstein, the Executive Vice President and General Counsel for Zuffa,
27 LLC, indicating that neither WMG, nor 82movie.com has authorization to distribute UFC
28

1 materials. According to Mr. Epstein, Zuffa, LLC owns the exclusive right to exhibit,
2 distribute and/or disseminate its broadcasts, including but not limited to its pay-per-view,
3 streaming, cable and satellite broadcasts. Mr. Epstein stated that Zuffa, LLC owns
4 hundreds of copyright registrations for its broadcasts, including of UFC events and other
5 related UFC videos and broadcasts. Mr. Epstein further stated that in Korea, Zuffa, LLC
6 has granted television distribution rights only and that there are no Korean entities who
7 are authorized to broadcast any UFC event, whether live or a replay, over the Internet.

8 67. Mr. Epstein stated that Zuffa, LLC has never consented to, approved or
9 authorized World Multimedia Group, Inc. and/or the owners of the websites located at
10 82movie.com or 007disk.com to use its copyrighted material or trademarks in any way,
11 including to stream or otherwise distribute any of Zuffa, LLC's copyrighted broadcasts.

12 68. On October 13 and 17, 2011, I exchanged emails and briefly spoke on the
13 telephone with Matthew C. Winterroth, Associate Counsel, Intellectual Property, for
14 WWE. Mr. Winterroth first confirmed verbally and later provided an email confirmation
15 indicating neither WMG, nor 82movie.com has authorization to distribute WWE
16 materials. Furthermore, Mr. Winterroth stated that the only place online to watch any and
17 all WWE pay-per-views is online at <http://www.wwe.com/ppv>.

18 69. According to Mr. Winterroth, WWE files U.S. copyright applications for
19 each televised episode of its event. It also files U.S. copyright applications for the DVD
20 media content for each event, its home video titles, and its films. They are legally
21 available online ONLY at <wwe.com> (<http://www.wwe.com/ppv>).

22 70. On November 7, 2011, I visited the 82movie.com websites and observed
23 that the abovementioned fitness videos and fighting/wrestling events are still available for
24 download.

25 **XII. Download of iTVWMG Mobile Application**

26 71. On October 20, 2011, I reviewed WMG's websites, wmgus.net and
27 itvwmg.com, which discuss "iTVWMG Mobile," the latest development by WMG to
28

1 provide movies and television shows to its customers. According to their website,
2 "ITVWMG Mobile is an application that you can watch all the Korean media such as
3 Korean TV show, movies, animations, and up to date news with amazingly high quality."
4 WMG offers the application (app) on smartphone devices, such as the iPhone, Android,
5 iPad and Galaxy tablet.

6 72. On October 20, 2011, at approximately 11:00 am, SA John Arruda and I,
7 utilizing an undercover (UC) Android smartphone, downloaded the app at no cost. When
8 accessing the app market (app store), we observed the developer name was wmgus.net.
9 There was also an indication on the market that the app had been downloaded over 10,000
10 times. After the app was successfully downloaded, with translation assistance from
11 Investigative Assistant (AA) Joon Song, I created a UC membership and gained access to
12 the home screen of the app. The home screen had a basic layout with the following
13 options: Video On-Demand (VOD); User information; favorites; and logout. After
14 clicking on the VOD icon, AA Song and I observed a list of categories, including: free
15 channels, HD Movies; new movies; Korean movies; foreign movies; variety shows;
16 documentaries; sports; news; children's programs; animation and cable programs.

17 73. We conducted a brief review of the abovementioned categories and
18 observed the following programming available to watch (via streaming). A number of
19 titles belonging to MBC, KBS2, SBS, (these are Korean broadcasting companies and
20 have previously confirmed that WMG is not authorized to distribute their content); a
21 number of recognizable U.S. shows, including X-Files, 90210, Stargate, The Wire and
22 Hell's Kitchen; multiple soccer matches (English Premier League); World Series games
23 and Ultimate Fighting Championship (UFC) fights; a number of recognizable U.S.
24 movies/shows, including the following. Harry Potter, the Deathly Hollows (part 1); Prison
25 Break, final episode; From Paris with Love; Bridesmaids; Zoo Keeper; Cars 2;
26 Assassination Games; The Green Lantern; Hangover 2; Captain America; and Kung Fu
27 Panda 2. Some of the categories had only a few titles, while others had several pages of
28

1 titles. The HD movie category, for example, had 29 pages, with 15 titles per page
2 (approximate 435 total).

3 74. When we attempted to play one of these movies, a screen appeared that
4 indicated the costs for service. The service costs for unlimited viewing were \$6.99 for 30
5 days, \$12.99 for 60 days and \$18.99 for 90 days. The screen indicated that only payment
6 by credit card was accepted and that they are working on a payment system that will
7 accept Korean cash cards. After selecting the amount, the app took us to the payment
8 screen, which had standard fields for credit card information. The screen said "iTV
9 Mobile uses Eximbay to process online payments," and had an Eximbay logo at the top. I
10 immediately recognized the logo from previous UC purchases on 82movie.com and
11 007disk.com.

12 **XIII. Review of 82us.com**

13 75. According to material publically available on the 82us.com website, it is the
14 "Leading portal website for Korean Americans." The website offers Korean Americans
15 free video services, message boards, directories, and information exchanges between
16 local/regional members. It has direct links to 007disk.com, 82movie.com and
17 wmgus.com. It also has an image and link for an SBS program named "Kang's Heart."
18 The website includes advertisements for Travelodge, Jung Eunyoung Insurance and other
19 businesses. There is a banner in the center of the website advertising the grand opening
20 of iTVWMG and its mobile application. By clicking on a link, a new window will open
21 that further describes iTV Mobile and provides screen shots from the app.

22 **XIV. Domains Utilized by WMG to Facilitate Criminal Copyright Infringement**

23 76. On November 15, 2011, I reviewed records provided by GoDaddy,
24 pertaining to an account owned by SANG JIN KIM. GoDaddy is an internet domain
25 name registrar that allows individuals and businesses to register internet domain names
26 with top level registries. According to GoDaddy, KIM is listed as the contact name for
27 "WORLD MULTIMEDIA Group, Inc" and the address is 6912 220th St. SW Mountlake
28

1 Terrace, Washington. The email address listed is sang@82movie.com. The account was
 2 created on November 5, 2009. GoDaddy provided the following list of active domains
 3 created with KIM's account that I believe are being utilized to facilitate the criminal
 4 copyright infringement described in this affidavit:

- 5 a. 82MOVIE.COM; created 6/4/2008; expires 6/4/2016;
- 6 b. 82MOVIE.NET; created 2/9/2009; expires 2/9/2017;
- 7 c. 007DISK.COM; created 10/1/2009; expires 10/1/2015;
- 8 d. 007DISK.NET; created 3/4/2010; expires 3/4/2016;
- 9 e. WMGUS.COM; created 5/27/2011; expires 5/27/2021;
- 10 f. WMGUS.NET; created 12/10/2009; expires 12/10/2014;
- 11 g. 82US.COM; created 4/19/2011; expires 4/19/2021;
- 12 h. WMGITV.COM; created 5/7/2011; expires 5/7/2012
- 13 i. ITVWMG.COM; created 5/7/2011; expires 5/7/2012
- 14 j. KTVWMG.COM; created 10/3/2011; expires 10/3/2016

15 77. On November 16, 2011, I visited some of the new domain names listed
 16 above and discovered the following (the corresponding Internet Protocol (IP) addresses
 17 were acquired from <http://cqcounter.com/whois>):

18 a. **82movie.net:** upon visiting this site, I was automatically redirected
 19 to 82movie.com. Both domains share IP address 174.127.155.2.

20 b. **007disk.net:** upon visiting this site, I observed the website to be
 21 identical to 007disk.com. Both domains share IP address 174.127.155.14.

22 c. **wmgus.com:** I observed the website to be identical to wmgus.net.
 23 Both domains share IP address 97.74.144.86.

24 d. **ktvwmg.com:** I observed the website to be identical to itvwmg.com,
 25 which is a simple banner that states "Currently iTVWMG Mobile Service can only be
 26 used on mobile." And "Customers who would like to use this service can search and
 27
 28

1 download "itvwmg" on Android Market or Apple App Store for free." Both ktvwmg.com
2 and itvwmg.com share IP address 216.18.226.13.

3 e. **wmgitv.com:** I observed this website to be unlike any of WMG's
4 other website. The website appeared to still be under development and many of the
5 sections/areas were blank or inoperable. The website's home page listed the following
6 options to click on: Channels; Event Schedule; Videos; PPV; upgrade to premium. Most
7 of these sections were not yet operational, however I observed several viewable items
8 available in the "Videos" section. I selected (clicked with the mouse) and viewed the
9 following movies available for streaming: A-Team; Fantastic Four; Up. I viewed several
10 parts of each movie, to include the beginning, middle and end. I recognized these movies
11 as U.S. movies belonging to Disney and Fox studios. There were also several
12 instructional videos for how to use the iPad.

13 When accessing and viewing these websites, I used Snagit to record and capture the
14 images.

15 RELEVANT STATUTES

16 A. Criminal Copyright Infringement

17 78. Title 17, United States Code, Section 506 provide in relevant part:

18 (a) Criminal infringement.--

19 (1) In general.--Any person who willfully infringes a copyright shall be
20 punished as provided under section 2319 of title 18, if the infringement was
21 committed--

22 (A) for purposes of commercial advantage or private financial gain;

23 (B) by the reproduction or distribution, including by electronic
24 means, during any 180-day period, of 1 or more copies or
25 phonorecords of 1 or more copyrighted works, which have a total
26 retail value of more than \$1,000; or
27
28

(C) by the distribution of a work being prepared for commercial distribution, by making it available on a computer network accessible to members of the public, if such person knew or should have known that the work was intended for commercial distribution.

79. Title 18, United States Code, Section 2319 provides in relevant part:

(a) Any person who violates section 506(a) (relating to criminal offenses) of title 17 shall be punished as provided in subsections (b), (c), and (d) and such penalties shall be in addition to any other provisions of title 17 or any other law.

(b) Any person who commits an offense under section 506(a)(1)(A) of title 17 -

(1) shall be imprisoned not more than 5 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, including by electronic means, during any 180-day period, of at least 10 copies or phonorecords, of 1 or more copyrighted works, which have a total retail value of more than \$2,500;

...

(3) shall be imprisoned not more than 1 year, or fined in the amount set forth in this title, or both, in any other case.

...

(d) Any person who commits an offense under section 506(a)(1)(C) of title 17 -

(1) shall be imprisoned not more than 3 years, fined under this title, or both

(2) shall be imprisoned not more than 5 years, fined under this title, or both,

if the offense was committed for purposes of commercial advantage or private financial gain

....

BACKGROUND REGARDING COPYRIGHTS

80. Based on my training and experience, I know the United States Copyright Office is an agency of the United States which promotes the progress of the arts and

1 protection for the works of authors. The United States Copyright Office is also the office
2 of record where claims to copyright are registered and where documents relating to
3 copyright may be recorded when the requirements of the copyright law are met.

4 81. In general terms, copyright is a form of protection provided by law for
5 original works of authorship, including literary, dramatic, musical, architectural,
6 cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual
7 creations. "Copyright" literally means the right to copy. The term has come to mean that
8 body of exclusive rights granted by law to authors for protection of their work. The owner
9 of a copyright has the exclusive right to reproduce, distribute, and, in the case of certain
10 works, publicly perform or display the work; to prepare derivative works; in the case of
11 sound recordings, to perform the work publicly by means of a digital audio transmission;
12 or to license others to engage in the same acts under specific terms and conditions.
13 Copyright protection does not extend to any idea, procedure, process, slogan, principle,
14 or discovery.

15 82. Effective April 27, 2005, Congress added an additional felony offense to
16 address the online infringement of pre-release works (codified at 17 U.S.C.
17 § 506(a)(1)(C)). Congress enacted this provision to target two phenomena that it deemed
18 particularly harmful to copyright-holders, especially in combination - "pre-release" piracy
19 and Internet piracy. Section 506(a)(1)(C) makes it a felony to willfully infringe "[I] by
20 the distribution of [ii] a work being prepared for commercial distribution, [iii] by making
21 it available on a computer network accessible to members of the public, [iv] if such
22 person knew or should have known the work was intended for commercial distribution."

23 83. The new offense eliminates the government's need to prove monetary and
24 numeric thresholds for the copies involved if the defendant distributed pre-release works
25 on a computer network. The element of an offense under § 506(a)(1)(C) referring to
26 "work being prepared for commercial distribution," is defined as:
27
28

(A) a computer program, a musical work, a motion picture or other audiovisual work, or a sound recording, if, at the time of unauthorized distribution-

(i) the copyright owner has a reasonable expectation of commercial distribution; and

(ii) the copies or phonorecords of the work have not been commercially distributed; or

(B) a motion picture, if, at the time of unauthorized distribution, the motion picture-

(i) has been made available for viewing in a motion picture exhibition facility; and

(ii) has not been made available in copies for sale to the general public in the United States in a format intended to permit viewing outside a motion picture exhibition facility.

Additionally, a 17 U.S.C. § 506(a)(1)(C) offense requires proof of a lower degree of mens rea as to the defendant's awareness that the work was "being prepared for commercial distribution" than the other elements of the offense, which require proof of "willfulness." Under § 506(a)(1)(C), the government need not demonstrate that a defendant had actual knowledge that the infringed work was a pre-release work, but rather, need only show that the defendant "knew or should have known" that the work was "intended for commercial distribution," which is essentially a negligence standard.

CONCLUSION

84. Based upon the evidence gathered in this investigation and set out above, including but not limited to my review of data and records, information received from other agents and computer security professionals, and my training and experience, there is probable cause to believe that SANG JIN KIM has committed the above violations of


1 Title 17, United States Code, Section 506(a)(1) (A) and (C) and Title 18, United States
2 Code, Section 2319(b)(1) and (d)(2)

3
4 

5 CHRISTOPHER ARMSTRONG, Affiant
6 Special Agent
7 Immigration and Customs Enforcement

8 Based on the Complaint and Affidavit sworn to before me, and subscribed in my
9 presence, the Court hereby finds that there is probable cause to believe the defendants
10 committed the offenses set forth in the Complaint.

11 DATED this 23 day of November, 2011.

12 

13 BRIAN A. TSUCHIDA
14 United States Magistrate Judge